

Appl. No. 09/558,465
 Atty. Docket No. 7546M
 Customer No. 27752

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Case 7546M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :
 David S. Dunlop et al. :
 Serial No. 09/558,465 : Group Art Unit: 1615
 Filed: April 25, 2000 : Examiner: Sheikh, Humera N
 Title: SHAMPOOS PROVIDING A SUPERIOR COMBINATION OF ANTI-
 DANDRUFF EFFICACY AND CONDITIONING

DECLARATION OF DAVID S. DUNLOP UNDER 37 CFR 1.132

Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22312-1450

Dear Sirs:

I, David S. Dunlop, hereby declare and say the following:

1. I have been a full-time employee of The Procter & Gamble Company since 1991, and my current position with the company is Principle Scientist, Global Beauty Care.
2. I am one of the named inventors on the above-entitled application and am familiar with the December 7, 2004 Office Action in that application.
3. The claimed invention in the above-entitled application:
 A shampoo composition comprising:
 - a) from about 5% to about 50%, by weight, of an anionic surfactant;
 - b) from about 0.01% to about 10%, by weight, of a non-volatile conditioning agent;
 - c) from about 0.1% to about 4%, by weight, of an anti-dandruff particulate;
 - d) from about 0.02% to about 5%, by weight, of a cationic polymer;
 - e) water;
 - f) from about 0.1% to about 10%, by weight of the composition, of a suspending agent;

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wherein said composition:

- i. has a bioavailability/coverage index value, of at least about 1.25;
- ii. has a first conditioning index value, of less than or equal to about 1.0;
- iii. has a second conditioning index value, of at least about 1.5; and
- iv. has a minimal inhibitory concentration index value, of at least about 0.125.

4. Under my direction, tests were performed to evaluate the bioavailability/coverage index, the first conditioning index, the second conditioning index, and the minimal inhibitory concentration index for shampoo compositions. The methods used to evaluate the products are as listed in present above titled application, under Analytical Methods in the Specification, beginning on page 41. Each of these formulas was being evaluated toward the objectives outlined in the application. Results from the testing show that surprisingly not all of the formulas met the criteria outlined for each of the bioavailability/coverage index, the first conditioning index, the second conditioning index, and the minimal inhibitory concentration index.

In Table 1, Formula A is representative of the present invention and is representative of the Examples found in the specification on pages 56-57 comprising Viscasil 300,000, Cetyl Alcohol, Guar Hydroxypropyltrimonium chloride having a molecular weight of about 200,000 from Aqualon, Hydrogenated Polydecene, zinc pyrithione, and surfactants. Formula B is representative of a formula as disclosed and claimed in Ramachandran et al (WO 96/29983) wherein the formula comprises an anionic surfactant, an amphoteric surfactant and a therapeutic agent, namely climbazole. Formula C is representative of a formula as disclosed and claimed in Cardin et al (US 5,104,645) wherein the formulas comprises a synthetic surfactant, a 1-hydroxy-2-pyridinethione metal salt in platelet form, a synergizer, a suspending agent and water.

Table 1

	Formula A	Formula B	Formula C
Bioavailability/coverage index	Yes	Yes	No
First Conditioning Index	Yes	Yes	Yes
Second Conditioning Index	Yes	Yes	No
Minimal Inhibitory Concentration Index	Yes	No	Yes

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5. Formula A meets the required criteria for the present invention for the bioavailability/coverage index, the first conditioning agent, the second conditioning index and the minimal inhibitory concentration index. Formula B, representative of a formula as disclosed and claimed in Ramachandran et al, does not meet the criteria for the minimal inhibitory concentration index. Formula C, representative of a formula as disclosed and claimed in Cardin et al., does not meet the criteria for the bioavailability/coverage index and does not meet the criteria for the second conditioning index. Thus, only Formula A, representative of the present invention, meets all of the criteria as specified by the present invention.

6. Tests were conducted according to the methods as described in Section 4 above. Formula D is representative of the present invention, which comprises a cationic polymer having a low molecular weight guar. Formula E represents a composition which has the same components as Formula D with the exception that a higher molecular weight/charge guar (C₁₇ Guar) replaced a low molecular weight guar.

Table 2

	Formula D	Formula E
Second Conditioning Index	Yes	No

7. In Table 2, Formula D, comprising a low molecular weight guar as a cationic polymer, meets the required criteria for the present invention for a second conditioning index. Formula E, comprising a higher molecular weight/charge guar (C₁₇ Guar), does not meet the required criteria for a second conditioning index.

8. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18, of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application of any patent issued thereon.


David S. DunlopDated: 7 March 05

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18 U.S.C §1001 Statements or Entries Generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined no more than \$10,000 or imprisoned not more than five years, or both.

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